



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,374	10/14/2003	Craig Bonsignore	CRD-5054	4420
27777	7590	12/11/2006		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER YABUT, DIANE D	
			ART UNIT	PAPER NUMBER
			3734	

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,374

Applicant(s)

BONSIGNORE, CRAIG

Examiner

Diane Yabut

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,10-16,18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7-9 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/7/2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121. This application contains claims directed to the following patentably distinct species of the claimed invention. The species are as follows:

<u>Species</u>	<u>Figure(s)</u>
1	1: graft extension is internal and bypass graft is external
2	2: graft extension is external and bypass graft is internal
3	3: bypass graft is harvested vessel, interior coupling graft

There is no generic claim.

2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.
3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR

Art Unit: 3734

1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

6. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

7. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Art Unit: 3734

8. During a telephone conversation with Carl Evens on Wednesday,

December 6, 2006 a provisional election was made without traverse to prosecute the invention of Species 1 directed towards Figure 1 and Claims 1-4, 7-9, and 17.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5, 6, 10-16, and 18-19 which read on Species 2-3, are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to non-elected inventions.

Information Disclosure Statement

10. The information disclosure statement (IDS) submitted on 7 March 2005 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

11. The disclosure is objected to because of the following informalities: On page 5, paragraph 17 it reads "exerts and inward force" and should read --exerts an inward force--.

Appropriate correction is required.

Art Unit: 3734

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-4, 7-9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wisselink** (U.S. Patent No. **5,984,955**) in view of **Levine** (U.S. Pub. No. **20040220682**).

Claims 1 and 17: **Wisselink** discloses the claimed device including a main trunk **12a**, first and second stent-anchors **18** associated with said main trunk, a graft extension **14** extending from said trunk, a bypass vessel, and an internal anchor **20**, inserting a graft coupling device having a main trunk and a graft extension in a main vessel having an incision such that said graft extension protrudes from said extension, sealing said main trunk to said main vessel with anchors, placing a bypass graft over a portion of said graft extension (Figures 2C, col. 4, lines 42-67, col. 7, lines 39-67), except for an external anchor, said internal anchor and said external anchor sealing said graft extension and said bypass vessel.

Levine teaches an external anchor **314** and an internal anchor **312**, said internal anchor and said external anchor cooperating to seal said graft extension and said bypass vessel (Figure 18 and page 8, paragraphs 85-86). It would have been obvious to one of ordinary skill in the art at the time of invention to modify

Art Unit: 3734

Wisselink by providing cooperating internal and external anchors, as taught by Levine, since it was known in the art that coupling ends in anastomosis with opposing expandable/collapsible forces provides a secure engagement between ends of conduits in providing double the amount of force as with just one expandable/collapsible stent anchor, as well as facilitates connection without the use of messy chemical or fusing agents.

Claim 2: Wisselink discloses said bypass vessel comprising an artificial graft **16** or a donor vessel (col. 7, lines 39-67).

Claim 3: Wisselink discloses said bypass vessel extending over said graft extension and wherein said internal anchor is disposed in said graft extension in an area at least partially overlapped by said bypass vessel (col. 7, lines 39-67).

Claim 4: Wisselink discloses the claimed device except for said external anchor being integral with said bypass vessel in an area which at least partially overlaps said bypass vessel.

Levine teaches said external anchor **314** being integral with said bypass vessel in an area which at least partially overlaps said bypass vessel **312** (Figure 18 and page 8, paragraphs 85-86). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Wisselink by providing an external anchor being integral with said bypass vessel, as taught by Levine, since it was known in the art that coupling ends in anastomosis with devices that overlap the conduits provides a secure engagement between ends of conduits and may be easily disposed over and removed from the bypass vessel.

Art Unit: 3734

Claim 7: Wisselink discloses said first and second stent-anchors **18** are disposed in an interior area of said main trunk on opposite ends of said graft extension (Figure 2c).

Claim 8: Wisselink discloses said first and second stent-anchors exuding an outward force to seal said main trunk in a main vessel (col. 7, lines 49-52).

Claim 9: Wisselink discloses said first and/or second stent-anchors comprising a plastically deformable material (col. 1, lines 52-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane Yabut whose telephone number is (571) 272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DY



MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER